

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

LITE-NETICS, LLC,

Plaintiff/Counter-Defendant,

vs.

NU TSAI CAPITAL LLC, d/b/a HOLIDAY  
BRIGHT LIGHTS,

Defendant/Counterclaimant.

**NO. 8:22CV314**

**ORDER SETTING DEADLINE FOR  
OPPOSITION TO  
DEFENDANT/COUNTERCLAIMANT'S  
MOTION FOR TEMPORARY  
RESTRAINING ORDER**

This action is before the Court on the September 30, 2022, Motion for Temporary Restraining Order and Preliminary Injunction by defendant/counterclaimant Nu Tsai Capital LLC, d/b/a Holiday Bright Lights, (HBL). [Filing 12](#). In its Motion, HBL includes a request for oral argument and an evidentiary hearing on the Motion for Preliminary Injunction, but it does not include such a request on the Motion for Temporary Restraining Order. Rule 65 of the Federal Rules of Civil Procedure provides, in pertinent part, “The court may issue a temporary restraining order [(TRO)] without written or oral notice to the adverse party or its attorney.” [Fed. R. Civ. P. 65\(b\)\(1\)](#); *see also Tumey v. Mycroft AI, Inc.*, 27 F.4th 657, 665 (8th Cir. 2022) (noting that there is a material difference between a TRO and a preliminary injunction in the allowed duration and the requirement of notice). The ability to issue a TRO without notice to the adverse party necessarily includes the ability to do so without giving the adverse party the opportunity to respond to the request for a TRO. Rule 65 does not require the Court to issue a TRO without affording the adverse party the opportunity to respond, however. This Court declines to rule on a motion or a TRO without briefing from the adverse party where both parties have been served with the motion via the CM/ECF system. On the other hand, the Court concludes that neither oral argument nor an evidentiary hearing is necessary before ruling on the Motion for Temporary Restraining Order in

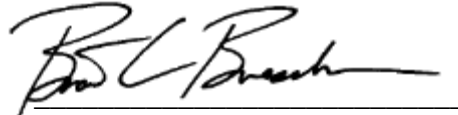
this case. Instead, the Court will set an expedited deadline for the adverse party to respond to the Motion with a brief and index of any supporting evidence or affidavits with the intention of ruling on the motion based on the parties' written submissions.

Accordingly,

IT IS ORDERED that plaintiff/counter-defendant Lite-Netics, LLC, shall have to and including 5:00 p.m. on Wednesday, October 5, 2022, to file a brief in opposition and any index of supporting evidence and affidavits in response to defendant/counterclaimant HBL's September 30, 2022, Motion for Temporary Restraining Order, [Filing 12](#). The Court believes that the Motion for Temporary Restraining Order can be addressed through written submissions and evidence; if either party believes an evidentiary hearing is necessary, that party must file such request and state with specificity why an evidentiary hearing is necessary.

Dated this 3rd day of October, 2022.

BY THE COURT:

A handwritten signature in black ink, appearing to read "B. C. Buescher", written over a horizontal line.

Brian C. Buescher  
United States District Judge